

7/12/66

52. ARK SITE LEASES, CORTE MADERA CREEK, MARIN COUNTY - W.O. 5754.

During consideration of Calendar Item 51 attached, the Executive Officer reported that objections had been received from the Marin County Board of Supervisors, Assemblyman William T. Bagley, Mr. Arthur B. Wing, a lessee, and Mr. and Mrs. J. W. Hugus, also lessees, contending that the notification period on increased rentals was too short, that the proposed lease term of one year is too short, and that the proposed rental rates are excessive. Also, a letter of protest of ark site abandonment was received from Gerda Weldon, who is not, however, a lessee of the State. The Executive Officer pointed out that the proposed new rental rates were based on and in accordance with the established rental policies of the Commission, which, in turn are based upon the appraised value of the land.

In view of the circumstances surrounding the ark site leases, it was suggested that the staff prepare a new recommendation that would permit continued occupancy of the ark sites westerly of the Bon Air Bridge under existing leases to December 31, 1966, and, secondly, issue new leases effective January 1, 1967, at the new rental rates, subject to termination on thirty days' notice.

Appearances were then made by the following:

Mrs. Harry Winter, owner of Ark 5-B.

Mr. Carl Shapiro, a partner in the law firm of Hallinan, Shapiro, Hallinan and Rice, representing twenty-one ark owners along the Corte Madera Canal.

On behalf of the State, Deputy Attorney General N. Gregory Taylor explained that there is no legal basis on which the State Lands Commission can give compensation to any lessees for the loss of their improvements, as this is not a compensable interest under the State Constitution.

Mr. Thomas A. Hendricks, Deputy County Counsel of Marin, stated that as the law is written presently there can be no compensation for the ark site dwellers above the Bon Air Bridge. However, a bill was sponsored in the Special Session of the State Legislature in 1966 by the County Board of Supervisors to permit such compensation. Inasmuch as that bill was not passed, and also due to the fact that the ark site lessees are prevented from moving their improvements (arks), the bill probably will be reintroduced in the 1967 Regular Session of the Legislature, and, if special legislation is passed to authorize payment to the lessees for the loss of their improvements, the County will be more than glad to do this.

Thereafter, upon motion duly made and carried, the following resolution was proposed and adopted:

THE COMMISSION AUTHORIZES THE EXECUTIVE OFFICER TO CANCEL THE TERMINATION NOTICES THAT WERE ISSUED TO BE EFFECTIVE JULY 22, 1966, FOR ARK SITES 1, 2,

4, 5-A, 5-B, 6, 7, 8, 9, 10, 11, 11-A, 12, AND 13, CORTE MADERA CANAL, MARIN COUNTY, AND TO PERMIT OCCUPANCY OF THESE ARK SITES ON A MONTH-TO-MONTH BASIS FOR THE REMAINDER OF THE YEAR 1966 AT THE CURRENT RENTAL RATES, WITH THE UNDERSTANDING THAT THE MATTER IS TO BE RECONSIDERED BY THE COMMISSION AT A LATER DATE.

Attachment

Supplemental Calendar Item 51 (2 pages)

51.

RECOMMENDATION FOR ISSUANCE OF NEW LEASES AT INCREASED RENTAL COVERING 15 ARK SITES ON CORTE MADERA CREEK, MARIN COUNTY, OR COMMENCEMENT OF EVICTION PROCEEDINGS AGAINST PERSONS PRESENTLY IN POSSESSION WHO HOLD OVER AFTER JULY 22, 1966, TERMINATION DATE OF PRESENT LEASES - W.O. 5754.

On October 21, 1965, the State Lands Commission authorized the Executive Officer to issue month-to-month extensions of expired ark-site leases on Corte Madera Creek, with provision for a 60-day notice of termination due to the imminent need for rights-of-way for a flood-control project.

On April 28, 1966, the State Lands Commission authorized the service of 60-day notices of termination which expire on July 22, 1966.

In the interim, design changes have been made to provide for continued operation of a sewer line to service those arks west of the Bon Air Bridge, so as to allow for continued occupancy until federal funds are budgeted for this reach of the project.

The ark-site leases were issued originally in 1952, with most leases having expired on December 31, 1965. The highest rental has been \$65 per year.

Since the notices of termination will act to terminate the lease extension as of July 22, 1966, the proposed new leases would be effective on July 23, 1966, for a period of one year.

A staff appraisal reveals substantial changes in land values in the area since 1952. Accordingly, it is recommended that rents be increased to reflect present-day land values. The amount of the rental is computed from the area of State land occupied, measured in square feet, and is based upon the schedule of leasing rates adopted by the State Lands Commission on November 18, 1959.

The schedule specifies that the minimum annual rental for ark sites shall be \$65 or 6% of the appraised value of the land, whichever is greater.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE A LEASE FOR A PERIOD OF ONE YEAR BEGINNING JULY 23, 1966, TO THE FOLLOWING LESSEES, AT ANNUAL RENTALS AS SET FORTH BELOW:

<u>NAME</u>	<u>ARK SITE NO.</u>	<u>ANNUAL RENT</u>
LEONE M. BIRCH	1	\$ 96.00
T. E. KUHLMAN	2	132.00
ROLAND R. AND ELSA K. DURHAM	4	65.00
J. A. IANN	5A	65.00
MRS. HARRY H. WINTER	5B	156.00

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<u>NAME</u>	<u>ARK SITE NO.</u>	<u>ANNUAL RENT</u>
BARBARA A. PELL AND NANCY BEAN	6	\$414.00
JOHN A. NYQUIST	7	204.00
ASA S. BRIGGS AND EVELYN D. BRIGGS	7A	108.00
MISS LORETTA SCHMIDT	8	108.00
R. E. OLIVER	9	186.00
WILLIAM R. HANLON, ALBERT K. ENGEL	10	426.00
CHARLES F. VOGEL	11	240.00
JOHN W. AND MYRTLE HUGUS	11A	408.00
BETTY MCLELLAN	12	384.00
ARTHUR B. WING	13	426.00

IT IS FURTHER RECOMMENDED THAT EVICTION PROCEEDINGS AND SUCH OTHER LEGAL ACTION AS IS APPROPRIATE BE COMMENCED AGAINST THOSE PERSONS PRESENTLY IN POSSESSION WHO HOLD OVER AFTER THE JULY 22, 1966, TERMINATION DATE AND WHO FAIL TO EXECUTE THE NEW LEASE AND TENDER THE CONSIDERATION THEREFOR.